



[Billing code: 6750-01-S]

## **FEDERAL TRADE COMMISSION**

### **Agency Information Collection Activities; Submission for OMB Review; Comment Request**

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice and request for comment.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, the FTC is seeking public comments on its request to OMB for a three-year extension of the current PRA clearance for the information collection requirements contained in the Mail, Internet, or Telephone Order Merchandise Rule (MITOR). This clearance expires on April 30, 2016.

**DATES:** Comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below. Write “Mail, Internet, or Telephone Order Merchandise Trade Regulation Rule: FTC File No. R511929” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/mitorpra2> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC

20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information requirements should be addressed to Jock Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2984.

**SUPPLEMENTARY INFORMATION:**

*Title:* Mail, Internet, or Telephone Order Merchandise Rule (MTOR or Rule), 16 CFR Part 435.

*OMB Control Number:* 3084-0106.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* Generally, the MITOR requires a merchant to: (1) have a reasonable basis for any express or implied shipment representation made in soliciting the sale (if no express time period is promised, the implied shipment representation is 30 days); (2) notify the consumer and obtain the consumer's consent to any delay in shipment; and (3) make prompt and full refunds when the consumer exercises a cancellation option or the merchant is unable to meet the Rule's other requirements.

The notice provisions in the Rule require a merchant who is unable to ship within the promised shipment time or 30 days to notify the consumer of a revised date and his or her right to cancel the order and obtain a prompt refund. Delays beyond the revised

shipment date also trigger a notification requirement to consumers. When the MITOR requires the merchant to make a refund and the consumer has paid by credit card, the Rule also requires the merchant to notify the consumer either that any charge to the consumer's charge account will be reversed or that the merchant will take no action that will result in a charge.

On January 19, 2016, the Commission sought comment on the information collection requirements in MTOR. See 81 FR 2860. The Commission received two comments but neither one addressed the issues raised by the public comment request. As required by OMB regulations, 5 CFR Part 1320, the FTC is providing this second opportunity for public comment.

*Likely Respondents:* Businesses engaged in the sale of merchandise by mail or by telephone.

*Estimated Annual Hours Burden:* 1,953,840 hours

Third Party Disclosure:  $[(33,267 \text{ established businesses} \times 50 \text{ hours}) + (1,263 \text{ new entrants} \times 230 \text{ hours})] = 1,953,840 \text{ hours}$

*Estimated Annual Cost Burden:* \$44,879,705, which is derived from 1,953,840 hours x \$22.97/hour<sup>1</sup>.

#### *Request for Comment*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE THAT IS 30 DAYS FROM

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<sup>1</sup> This is the mean hourly income for workers in sales and related occupations according to the latest figures from the Department of Commerce's Bureau of Labor Statistics. See Table 1, National

FEDERAL REGISTER DATE OF PUBLICATION]. Write “Mail, Internet, or Telephone Order Merchandise Trade Regulation Rule: FTC File No. R511929” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you

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employment and wage data from the Occupational Employment Statistics survey by occupation, May 2015, at <http://www.bls.gov/news.release/ocwage.t01.htm>.

must file it in paper form, with a request for confidential treatment, and you are required to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comment online, or to send it to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/mitorpra2>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov>, you also may file a comment through that website.

If you file your comment on paper, write “Mail, Internet, or Telephone Order Merchandise Trade Regulation Rule: FTC File No. R511929” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on

or before [insert date 30 days from FEDERAL REGISTER date of publication]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.shtm>.

Comments on the information collection requirements subject to review under the PRA should also be submitted to OMB. If sent by U.S. mail, address comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395-5167.

Christian S. White,  
Deputy General Counsel.  
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